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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)
Grandfathered Short-Spaced) MM Docket No. 96-120
FM Stations) RM-7651

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To: The Commission

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JUL 22 1996

COMMENTS OF KALI-FM, INC.

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

1. KALI-FM, Inc. ("KALI"), licensee of Station KALI-FM, Santa Ana, California, hereby submits its comments with respect to the proposed revisions to Section 73.213(a) of the Commission's Rules contained in the Commission's Notice of Proposed Rule Making, 61 FR 33474 (pub. 6/27/96) ("NPRM"). As explained below, KALI supports the Commission's proposal, particularly as it relates to the elimination of second and third-channel spacing requirements for grandfathered stations, because, as the Commission recognizes in the NPRM, the elimination of those requirements will increase the flexibility of FM station licensees in relocating their transmitter sites in order to more efficiently serve their communities, while also reducing interference.

2. Currently Section 73.213(a) of the Commission's Rules makes it extremely difficult for grandfathered short-spaced FM

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stations to modify their operating facilities or relocate their transmitter sites. Section 73.213(a) prohibits any change in the facilities of grandfathered stations which would extend the predicted distance of the 1 mV/m contour towards the 1 mV/m contour of short-spaced stations. Thus, under Section 73.213, stations "are restricted from increasing their authorized facilities in the direction of a short-spaced station, or to move closer to such a station." NPRM, ¶15. However, for second and third adjacent stations, a move away from the short spaced station could result in a new area of interference within the 1 mV/m contour of the short spaced station.

3. In the NPRM, the Commission seeks comments on three separate proposals relating to Section 73.213. Proposal 2 would eliminate both the second and third-adjacent channel spacing requirements for short-spaced stations. It is this proposal which KALI wholeheartedly supports for a number of reasons. First, adoption of the proposal would afford short-spaced stations greater flexibility to make changes to their facilities, thus increasing "the ability of existing stations to modify and improve service in response to changing conditions." NPRM, ¶24. Secondly, the proposed change would in fact be a return to the situation that existed from 1964 to 1987 (when the Commission modified Section 73.213 to its present form). During that time period, when stations operated with complete flexibility on second and third-adjacent channel short spacing, the Commission indicated that it

received few complaints of second or third adjacent channel interference. Finally, as KALI has itself experienced, second and third adjacent channel short spaced situations are not "particularly troublesome" because the "usually small amounts of additional interference that may result will, in many cases, fall in less densely populated areas." (NPRM at ¶19).

4. Section 71.213 in its present form unnecessarily restricts the ability of short-spaced FM stations to effectuate minor modifications of their facilities, modifications that could result in increased service to the public. Indeed, the rule now restricts modifications even in situation where the benefit of increased service outweighs the interference in less densely population areas. KALI is now faced with that situation. As a result of pending litigation, it may be necessary for KALI to relocate its transmitter site. However, due to two short spaced second adjacent channels, KALI is presently impeded from modifying its station's transmitter site without a rule waiver from the Commission. Indeed, because KALI is located inside the service contour of both of the second-adjacent channel stations, it has virtually no flexibility under the Commission's current rules to move or make changes in its facilities.

5. That restriction is particularly anomalous in the case of KALI because such a move could increase its service and also decrease the population that would experience interference. KALI would be moving from a more densely populated area to a less

densely populated area. Operation at the proposed new transmitter site would actually result in a substantial decrease (over 30% and over 50%, respectively) in the population that would experience interference to the two stations, even though the land area of the overlap would increase (approximately 9% to both). Thus, if the proposal outlined in the NPRM were adopted, KALI would request that the Commission consider the reduction in population experiencing interference as a benefit that outweighs a slight increase in land area affected.


6. As the NPRM acknowledges, waivers have been granted allowing noncommercial educational stations to accept second adjacent channel signal contour overlap. In Educational Information Corporation, 6 FCC Rcd 2207 (1991), the Commission granted such a waiver because it recognized that the current restrictions "perpetually restrict[] stations to their current facilities," even in view of the "limited nature of the interference potential of second or third adjacent channels." As the Commission found in Educational Information Corporation, the benefit of increased service outweighs the potential for interference in very small areas and, therefore, under the same reasoning the proposed rule changes should be adopted.

7. Adopting the proposed changes and thereby allowing modification of facilities without the constraint of second and third adjacent channels is not without precedent. Before 1987, the Commission's Rules allowed those modifications and the Commission's

experience found virtually no complaints of interference. NPRM
¶24. At that time, short spaced stations existed with "complete
flexibility on second-adjacent-channel and third-adjacent-channel
interference. Therefore, it is clearly in the public interest to
adopt the proposed rule changes with particular emphasis on
reducing the population experiencing interference.

Respectfully submitted,

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